

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The bill (H.R. 339), as amended, was passed.

SERGEANT JOSEPH GEORGE KUSICK VA COMMUNITY LIVING CENTER

Mr. PORTMAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2210, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2210) to designate the community living center of the Department of Veterans Affairs in Butler Township, Butler County, Pennsylvania, as the "Sergeant Joseph George Kusick VA Community Living Center."

There being no objection, the Senate proceeded to consider the bill.

Mr. PORTMAN. I ask unanimous consent that the bill be considered read a third time and passed and the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2210) was ordered to a third reading, was read the third time, and passed.

VETERANS APPEALS IMPROVEMENT AND MODERNIZATION ACT OF 2017

Mr. PORTMAN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from further consideration of H.R. 2288 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2288) to amend title 38, United States Code, to reform the rights and processes relating to appeals of decisions regarding claims for benefits under the laws administered by the Secretary of Veterans Affairs, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. PORTMAN. Mr. President, I ask unanimous consent that the Isakson substitute amendment at the desk be considered and agreed to; the bill, as amended, be considered read a third time and passed; and that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 745) in the nature of a substitute was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The bill (H.R. 2288), as amended, was passed.

OFFICE OF SPECIAL COUNSEL REAUTHORIZATION ACT OF 2017

Mr. PORTMAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 93, S. 582.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 582) to reauthorize the Office of Special Counsel, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 582

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office of Special Counsel Reauthorization Act of 2017".

SEC. 2. ADEQUATE ACCESS OF SPECIAL COUNSEL TO INFORMATION.

Section 1212(b) of title 5, United States Code, is amended by adding at the end the following:

"(5)(A) Except as provided in subparagraph (B), the Special Counsel, in carrying out this subchapter, is authorized to—

"(i) have timely access to all records, data, reports, audits, reviews, documents, papers, recommendations, or other material available to the applicable agency that relate to an investigation, review, or inquiry conducted under—

"(I) section 1213, 1214, 1215, or 1216 of this title; or

"(II) section 4324(a) of title 38;

"(ii) request from any agency the information or assistance that may be necessary for the Special Counsel to carry out the duties and responsibilities of the Special Counsel under this subchapter; and

"(iii) require, during an investigation, review, or inquiry of an agency, the agency to provide to the Special Counsel any record or other information that relates to an investigation, review, or inquiry conducted under—

"(I) section 1213, 1214, 1215, or 1216 of this title; or

"(II) section 4324(a) of title 38.

"(B)(i) The authorization of the Special Counsel under subparagraph (A) shall not apply with respect to any entity that is an element of the intelligence community, as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003), unless the Special Counsel is investigating, or otherwise carrying out activities relating to the enforcement of, an action under subchapter III of chapter 73.

"(ii) The Attorney General or an Inspector General may withhold from the Special Counsel material described in subparagraph (A) if—

"(I) disclosing the material could reasonably be expected to interfere with a criminal investigation or prosecution that is ongoing as of the date on which the Special Counsel submits a request for the material; and

"(II) the Attorney General or the Inspector General, as applicable, submits to the Special Counsel a written report that describes—

"(aa) the material being withheld; and

"(bb) the reason that the material is being withheld.

"(C)(i) A claim of common law privilege by an agency, or an officer or employee of an agency, shall not prevent the Special Counsel from obtaining any material described in subparagraph (A)(i) with respect to the agency.

"(ii) The submission of material described in subparagraph (A)(i) by an agency to the Special Counsel may not be deemed to waive any assertion of privilege by the agency against a non-Federal entity or against an individual in any other proceeding.

"(iii) With respect to any record or other information made available to the Special Counsel by an agency under subparagraph (A), the Special Counsel may only disclose the record or information for a purpose that is in furtherance of any authority provided to the Special Counsel in this subchapter.

"(6) The Special Counsel shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and each committee of Congress with jurisdiction over the applicable agency a report regarding any case of contumacy or failure to comply with a request submitted by the Special Counsel under paragraph (5)(A)."

SEC. 3. INFORMATION ON WHISTLEBLOWER PROTECTIONS.

(a) AGENCY RESPONSIBILITIES.—Section 2302 of title 5, United States Code, is amended by striking subsection (c) and inserting the following:

"(c)(1) In this subsection—

"(A) the term 'new employee' means an individual—

"(i) appointed to a position as an employee on or after the date of enactment of the Office of Special Counsel Reauthorization Act of 2017; and

"(ii) who has not previously served as an employee; and

"(B) the term 'whistleblower protections' means the protections against and remedies for a prohibited personnel practice described in paragraph (8) or subparagraph (A)(i), (B), (C), or (D) of paragraph (9) of subsection (b).

"(2) The head of each agency shall be responsible for—

"(A) preventing prohibited personnel practices;

"(B) complying with and enforcing applicable civil service laws, rules, and regulations, and other aspects of personnel management; and

"(C) ensuring, in consultation with the Special Counsel and the Inspector General of the agency, that employees of the agency are informed of the rights and remedies available to the employees under this chapter and chapter 12, including—

"(i) information with respect to whistleblower protections available to new employees during a probationary period;

"(ii) the role of the Office of Special Counsel and the Merit Systems Protection Board with respect to whistleblower protections; and

"(iii) the means by which, with respect to information that is otherwise required by law or Executive order to be kept classified in the interest of national defense or the conduct of foreign affairs, an employee may make a lawful disclosure of the information to—

"(I) the Special Counsel;

"(II) the Inspector General of an agency;

"(III) Congress; or

"(IV) another employee of the agency who is designated to receive such a disclosure.